IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE GHULAM MOHAMMED**

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**WRIT PETITION NO: 24903 of 1998 AND CRL.P.NO.1909 OF 2000**

**WP.24903/1998**

Between:

K. Krishna Mohan, S/o. K. Satyanarayana, aged about 25 years,
R/o.18-296-1-15, Neeruganti Street, Venugopal Nagar

Ananthapur District, Andhra Pradesh.

**... PETITIONER**

AND

1. Govt. of Andhra Pradesh, rep. by its Principal Secretary,

Health, Medical & Family Welfare Department,

Secretariat, Hyderabad.

2. District Collector, Warangal District, Warangal

3. State of AP through Deputy Superintendent,
CID (T)/W/R, Hyderabad.

4. The Director, St. Pauls' Christain Medical College,

Hanumakonda, Dr. M.S. Dayakar Rao, S/o. M.S. Raju,
aged 65 years, Kamcharakunta, Hanumakonda, Warangal District.

5. The Branch Manager, Vysya Bank, Hanumakonda Branch,

Warangal District.

**...RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more fully in the nature of Writ of Mandamus directing the respondents herein to release the amount of Rs.1,47,000/- out of the account No.338, Vysya Bank, Hanumakonda branch in favour of the petitioner by declaring the action of the respondents in not releasing the amount due to the petitioner is illegal, improper and arbitrary.

**Counsel for the Petitioner: MR. O. MANOHER REDDY**

**Counsel for the Respondent No.1: GP FOR MEDICAL AND HEALTH**

**Counsel for the Respondent NO.2: GP FOR REVENUE**

**Counsel for the Respondent No.5: MR. VILAS AFZALPURKAR**

**Crl.P.No.1909 of 2000**

Between:

K. Krishna Mohan S/o K. Satyanarayana,

Aged 26 years, r/o Ananthapur.

**...PETITIONER**

AND

1. State of A.P.thro' Deputy Superintendent of Police C.B.C.I.D.,

Warangal, rep. by Public Prosecutor, High Court of A.P.,
Hyderabad.

2. Dr. M.S. Dayakara Rao S/o M.S.Raju, Director, St. Pauls' Christian Medical College, Hanumakonda, Warangal.

**...RESPONDENTS**

Petition under Section 482 of the Code of Criminal Procedure, 1973 praying to direct that the amount lying in the account No.338 of the second respondent herein, Vysya Bank, Warangal shall be released to the extent ofRs.1,47,000/- ( Rupees One Lakh forty thousand only) with interest in petitioner's favour.

**The Court made the following:**

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COMMON ORDER:

Both these petitions are filed by the same petitioner seeking a direction to the respondents to release the amount of Rs.1,47,000/- out of the amounts in Account No.338, Vysya Bank, Hanumakonda Branch, in his favour. For the purpose of dealing with the case, the facts in WP No.24903 of 1998 may be briefly noted.

In response to the advertisement given by the St.Pauls' Christian

Medical College, Hanumakonda, represented by its Director-4th respondent, inviting applications from the students for admission into 1st year MBBS course, the petitioner responded and taken admission and as per the instructions of the 4th respondent, stated to have paid an amount of Rs.1,00,000/- as deposit and an amount of Rs.60,000/- as tuition fees by way of demand drafts obtained from SBI, Hanumakonda. It is also stated that the petitioner attended classes in the month of February 1993 but eventually came to know that the 4th respondent-Medical College has no permission either from the State Government or the Medical Council of India to run the Medical College. It is further stated as the 4th respondent had collected amounts from about 15 candidates towards deposit amounts and tuition fees without having any permission from the State Government or the Medical Council of India as such a criminal case in Cr.No.5 of 1993 was registered for the offence punishable under Sections 420 IPC and Section 20 of the AP Education Act.

It is further stated that the 4th respondent pursuant to the rejection of approval from the Government and Medical Council of India, the 4th respondent has addressed letters to all the students to take back their deposit amounts, but the petitioner could not immediately approach the 4th respondent as there was change in his residential address and the letter addressed by the 4th respondent-Medical College went to the old address and the petitioner could approach the College only in the month of November, 1993 and he has been given a cheque for Rs.1,47,000/- after deducting Rs.13,000/- towards tuition fees and hostel fees for one month.

The grievance of the petitioner is that when he presented the cheque issued by the 4th respondent-Medical College, the concerned Bank has returned the same stating that the Account No.338 standing in the name of the 4th respondent-Medical College has been frozen by the 2nd respondent-District Collector, Warangal District. Hence, this writ petition is filed seeking to issue a writ of mandamus directing the respondents to release the amount of Rs.1,47,000/- from out of the amounts laying in Account No.338, Vysya Bank, Hanumakonda-5th respondent herein.

In the counter affidavit filed by the Zonal Inspector of Police, CID, Warangal Zone, on behalf of the 3rd respondent, it is stated that the 4th respondent-Medical College is a bogus and unrecognized institution started without any permission from the State Government and the Medical Council of India and as such a crime in Cr.No.5 of 1993 under Section 420 IPC and Section 20 of the AP Education Act was registered. It is further stated that the 3rd respondent-Dy. Superintendent of Police, CID, Warangal Range, vide proceedings dated 1-3-1993 addressed to the 5th respondent-Vysay Bank informing the registration of the criminal case and collection of the amounts by the 4th respondent requested to freeze the Account No.338 standing in the name of the 4th respondent-Medical College. It is further stated that an amount of Rs.3,05,350/- laying in the 5th respondent-Vysya Bank has been frozen and the account pass book has been seized and the said fact has been incorporated in the charge sheet filed before the criminal Court.

In the background of these things and in the absence of denial of issuance of cheque by the 4th respondent to the petitioner for refund of the amounts paid by him towards deposit and tuition fees and even it is not the case of the 3rd respondent that the petitioner is not the student of the 4th respondent-Medical College and also having regard to the fact that the petitioner could not approach College immediately to take the refund of amounts as there was a change in his address, the writ petition is allowed.

Accordingly, respondents 2, 3 and 4 are directed to release the amounts of Rs.1,47,000/- including interest accrued thereon, if any, in favour of the petitioner.

In view of the orders passed in the writ petition, no further orders are required to be passed in the Crl. Petition and it is accordingly dismissed.

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Ghulam Mohammed, J

Dated: 9-6-2005

Glv/Nrg.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Copies to:

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1. The Principal Secretary, Government of Andhra Pradesh,

Health, Medical & Family Welfare Department,

Secretariat, Hyderabad.

2. The District Collector, Warangal District,
Warangal

3. The Deputy Superintendent, State of Andhra Pradesh,
CID (T)/W/R, Hyderabad.

4. The Director, St. Pauls' Christain Medical College,

Hanumakonda, Dr. M.S. Dayakar Rao, S/o. M.S. Raju,
aged 65 years, Kamcharakunta, Hanumakonda, Warangal District.

5. The Branch Manager, Vysya Bank, Hanumakonda Branch,

Warangal District.

6. Two CCs to the Government Pleader for Medical and Health,
High Court Buildings, Hyderabad. (OUT)

7. Two CCs to the Government Pleader for Revenue,
High Court Buildings, Hyderabad. (OUT)

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